

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1620 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

DIVISIONAL CONTROLLER

Versus

RAGHUNATH M KHELKAR

Appearance:

MR YS LAKHANI for Petitioner

MR JS BRAHMBHATT for Respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 11/03/97

ORAL JUDGEMENT

Rule. Mr.Brahmbhatt who had entered caveat accepts the service of the Rule. On the request of both the sides the matter was taken up for final disposal right today.

The respondent was Clerk in the Gujarat State Road Transport Corporation, Baroda. He was dismissed

from the service on 23.10.1991 on the ground of absence without sanctioned leave. He approached the Labour Court and the Labour Court has granted relief of full backwages from the date of dismissal till the date of retirement in the year 1995 with continuity of service. The award has been passed on 13.8.1996 which is under challenge. Mr.Brahmbhatt has entered caveat on behalf of the respondent workman.

After hearing both the sides a suggestion was made that the respondent workman may suffer punishment of withholding of two increments with cumulative effect from the date of dismissal till the date of his retirement and instead of full backwages he may get the backwages to the extent of 70% only that too by keeping in view punishment of stoppage of two increments with cumulative effect as aforesaid. This suggestion is acceptable to both the sides i.e. the respondent Corporation as well as the concerned workman.

Accordingly this Special Civil Application is allowed in part and henceforth the rights and obligations of the parties shall be governed by following order instead of the order passed by the Labour Court on 13.8.1996.

- (1) The respondent workman shall suffer the punishment of two increments with cumulative effect from the date of dismissal till the date of his retirement.
- (2) The petitioner Corporation shall pay 70% of the backwages to the respondent workman by computing the same on the basis of the amount which the respondent workman would have drawn had he remained in service from 23.10.1991 to the date of his retirement taking into consideration the punishment of stoppage of two increments with cumulative effect from 23.10.1991 till the date of his retirement.
- (3). Due amount of backwages computed as aforesaid shall be made available into the hands of the respondent workman at the earliest possible opportunity but in no case later than 30.4.1997.

Rule is made absolute accordingly. No order as to costs.
